

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Irma Mrazek,
Petitioner-Appellant,

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-101-1169
Parcel No. 14201-01001-00000

On October 28, 2009, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Irma Mrazek, requested a hearing and submitted evidence in support of her petition. She is self-represented. The Board of Review designated City Attorney James H. Flitz as its legal representative. City of Cedar Rapids Deputy Assessor Tom Lee represented the Board of Review at hearing. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Irma Mrazek, owner of property located at 1735 Ellis Blvd. NW, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing her property. According to the property record card, the subject property consists of a two-story, frame dwelling having 1508 square feet of above-grade living area, a full unfinished basement, an open porch, and two enclosed porches built in 1914. The property has a 408 square foot detached garage built in 1991 and is situated on 0.195 acres. The improvements were damaged in the 2008 Cedar Rapids floods.

The real estate was classified as residential on the January 1, 2009, assessment and valued at \$20,950, representing the \$40,950 land value less the \$20,000 estimated cost of demolition of the flood-damaged dwelling.

Mrazek protested to the Board of Review on the ground that there was an error in the 2008 assessment under Iowa Code 441.37(1)(d) because it failed to include the full value of an all-season sunroom addition partially completed in December 2007. She claimed that \$134,000; allocated \$40,950 to land and \$93,050 in the dwelling was the actual value and a fair assessment of the property as of January 1, 2008. She did not dispute the 2009 assessment.

The Board of Review in response to the protest increased the 2009 assessment to \$134,000, allocating \$40,950 to land and \$93,050 to the dwelling. It appears that while Mrazek requested a change in the 2008 assessment, the Board of Review instead changed the 2009 assessment. There is no indication whether the Board of Review intended to change the 2008 assessment retroactively, as contended by Mrazek.

Mrazek then appealed to this Board. She reasserts the claim of error in the 2008 assessment. Mrazek testified that her original pre-flood 2008 property assessment was \$117,999 and that it failed to include the full \$17,000 value of a 12 foot by 20 foot sunroom added in 2007. According to the property record card, the property value increased by \$5715 between 2007 and 2008 to reflect the sunroom addition. A building permit for \$9390 was issued at the time of construction. Mrazek testified that the building costs were higher than initially estimated because it required new footings and removal of the existing deck.

Mrazek testified that the subject property is eligible for a government buyout program due to the construction of a new levee along the river. The payment she will receive through the buyout program is based on the difference between the pre-flood assessed value and the post-flood assessed

value. She hopes to recoup the total costs of the sunroom addition by a further increase in the pre-flood value.

Deputy Assessor Tom Lee testified that the subject property was extensively damaged by a flood in June 2008. All properties impacted by the flood were re-assessed to reflect the post-flood values. Contrary to Mrazek's assumption, he reported that the January 1, 2008, assessment did include the added value of the sunroom and was not an error. He did not believe that any mathematical or clerical errors occurred which would allow Mrazek to now retroactively ask for relief effecting the 2008 value.

We agree that the Board of Review did not have jurisdiction to change the 2008 assessment based on clerical or mathematical error, nor does this Appeal Board. However, we find the Board of Review erred by changing the 2009 assessed value of the property especially because of testimony showing the property is extensively damaged. For this reason the Mrazek 2008 property assessment should not be changed, but the 2009 value set by the assessor, even though Mrazek does not contest it, should be restored.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


A property owner may file a protest for a previous year to correct a clerical or mathematical error in an assessment year if the taxes have not been fully paid or legally discharged under section 441.37(2). However, the decision by the assessor of how much to increase the Mrazek dwelling value to include the sunroom addition is not a clerical or mathematical error. In this context, the Court held that a clerical error is one of writing or copying, in contrast to an error of judgment or law affecting the assessor's determination of the proper assessment. *American Legion, Hanford Post 5 v. Cedar Rapids Bd. of Review*, 646 N.W.2d 433, 439 (Iowa 2002). Because the error claimed by Mrazek was not a clerical or mathematical error, she is prohibited by statute from appealing a previous year's assessment. Specifically, neither the Board of Review nor this Board has jurisdiction to address a claimed error in the January 1, 2008, assessment.

However, given that the property was extensively damaged by the flood. And the Board of Review either through inadvertence or error raised the 2009 value, we vacate the Mrazek property assessment as determined by the Board of Review and reinstate the value as determined by the City of Cedar Rapids Assessor. The total assessed value of the Mrazek property as of January 1, 2009, is \$20,950.


THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the City of Cedar Rapids Board of Review is vacated and the value set by the Assessor is restored.

The Secretary of the Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Linn County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 16 day of November 2009.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-16</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	